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SUBJECT: UKRAINE: GOU SAYS IATA TICKET STOCK ILLEGAL-THREATENS SHUT DOWN OF IATA IN UKRAINE

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B) 06 KYIV 02788

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¶11. (SBU) Summary. In a meeting with representatives from Ukraine's State Aviation Authority (SAA), Economic officers verified the SAA had indeed found the International Air Transport Association's (IATA) ticket stock to be invalid under Ukrainian law. As a result, the SAA ordered IATA to refrain from releasing any more ticket stock to airlines and travel agencies. In addition, the SAA informed post that IATA was currently under investigation by Ukrainian law enforcement agencies for violations of Ukrainian law. The SAA noted that the most severe sanction possible could be the revocation of IATA's license to operate in Ukraine. EconCouns reminded the SAA of the negative international fallout of actually closing IATA down in Ukraine. The SAA was willing to meet with high ranking IATA officials in the nearest future to discuss the ticket stock issue and possible sanctions against IATA. End Summary.

¶12. (U) On August 7, Econ Counselor, EconOff, and Delta Airline's Country Director Dan Fenech met with Deputy Chairman of the SAA Dmytro Babeichuk and Head of the SAA's Air Services and Licensing Department Sergiy Korshuk to discuss the SAA's recent banning of the IATA's ticket stock, known as the Automated Ticket/Board Pass version 2 (ATB2), and overall concerns the SAA has with IATA's Billing and Settlement Program (BSP).

An Old Dispute Coming to a Boil

¶13. (SBU) In May 2005, IATA was informed by the SAA that BSP did not meet Ukrainian standards, and that the SAA was devising its own settlement system to replace it. IATA representative in Ukraine Sergei Martinyuk told us that IATA began the pilot period for the BSP and implementation of the ATB2 ticket stock in September 2005, hoping it could convince the SAA that both the BSP and ATB2 were beneficial to Ukraine. By December 2005, IATA reported it had completed the pilot study and began full implementation of the BSP/ATB2 program in May 2006. However, the SAA continued to resist BSP. The local Air France representative told post this spring that the SAA's chief problem with BSP was that IATA had held an open tender for the banking contractor to service BSP. In that tender, Citibank had prevailed over a Ukrainian bank, which had proposed charging unusually high fees for transactions. EconCouns met with the SAA in July 2006 (ref b) and was assured that any issues with the ATB2 would not affect international carriers, such as Delta, which had bilateral agreements with Ukraine. In March 2007, post learned from airline representatives that some travel agencies had complained of harassment from the State Tax Authority (STA) related to the use of the ATB2 ticket stock, which the STA and SAA had reportedly deemed illegal in Ukraine.

Ticket Stock Problem

¶ 14. (SBU) Notwithstanding ref B assurances a little over a year ago, SAA's Korshuk told us on August 7, that the ATB2 simply did not meet Ukrainian legal requirements, and airlines and travel agencies were no longer allowed to use the ATB2. (Note: It took the Embassy over two months of requests to get a meeting with Babeichuk and Korshuk and the SAA was adamant that no local IATA representative be present at the meeting. End Note.) Korshuk made it clear that airline tickets must be officially accountable documents, meaning they be must controlled, contain a serial number, and be registered with the Ministry of Finance. Korshuk explained that the SAA required ticket stock to be officially accountable documents in order to ensure contracted rights of passengers with carriers. The Ministry of Finance, Korshuk noted, separately required ticket stock to be officially accountable documents for tax audit purposes. Since IATA has been ordered to stop importing ATB2s to Ukraine, individual airlines must now import their own ticket stock and register it with the Ministries of Finance and Justice, or airlines could purchase officially accountable ticket stock provided by a local company that reportedly costs \$0.43 per ticket. In addition, Korshuk claimed that IATA began its pilot in September 2006, and the SAA informed IATA headquarters in Geneva and the local IATA representative that the ATB2 was illegal in January 2007. (Note: Korshuk's timeline contradicted information provided by IATA and airline officials and information the Embassy received from the SAA in July 2006. End Note.)

Threat to Close IATA Office

¶ 15. (SBU) According to IATA officials in Ukraine, in order to protect its rights, IATA initiated court proceedings against the SAA in April 2006, but IATA's initial complaint and subsequent appeal were rejected by Kyiv courts. In October 2006, IATA took its case to the Ukrainian Supreme Court, which to date has not decided to hear the case. IATA's Martinyuk added that since the Prosecutor's Office had ordered IATA to register its ticket stock with the Ministry of Finance in February 2006, IATA also filed a complaint with a Kyiv court against the Prosecutor's Office, which was rejected, and a subsequent appeal was also denied. IATA's complaint against the Prosecutor's Office has rested in the Supreme Court since April 2007, and the Supreme Court has not yet decided to hear this case. Korshuk confirmed that IATA is currently under investigation by Ukrainian law enforcement agencies and this case could lead to the withdrawal of IATA's operations license. Econ Counselor warned Babeichuk and Korshuk that any move to close IATA in Ukraine would likely be viewed negatively in a number of capitals. Delta Airlines' Dan Fenech offered to facilitate a meeting with high level IATA officials and the SAA in order to resolve the ATB2 issue. Babeichuk stated they were amenable to a meeting with high level officials from IATA, arguing that the local IATA representative did not seem to have decision making authority.

E-Tickets

¶ 16. (SBU) Econ Counselor inquired whether e-tickets qualified as official accountable documents under Ukrainian law (95% of Delta's transactions in Ukraine are now e-tickets). Korshuk stated that the SAA agreed to allow e-tickets under its regulations, but noted that the Ministry of Finance law on officially accountable documents required a control blank to accompany the e-ticket. Korshuk noted that a local company currently sells the control blanks to airlines and travel agencies for a fee and would do so until a new tax code e-commerce provision comes into effect in the near future that would authorize the information to be retained in an electronic format. (Note: The new tax code will not be considered by Parliament until a new parliament is formed after the September 30 elections.)

¶ 17. (SBU) Comment. The SAA appears to be enforcing the ticket stock regulation in an arbitrary manner and was frankly less than candid with us on a number of points. We strongly suspect the underlying motive for their actions may well be access to rents and revenue

flows created by the need for Ukrainian produced documents to replace the ATB2 and to accompany e-tickets. In addition, personalities appear to be playing a role -- the SAA's overt dislike for IATA's local representative has most likely exacerbated the problem and stymied a timely resolution of concerns. Repercussions of the stalemate are potentially serious, since it would be difficult for Western airlines to operate in Ukraine without the BSP, which covers both paper and electronic tickets. Finally, the arbitrariness of the SAA on the ticket stock issue does not give us confidence regarding their assurances that e-tickets do not pose a problem. Post intends to continue liaising closely with industry to ensure that the GOU's meddling does not impede their operations.

End Comment.

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